

#3203 12/14/2018
9:44am

KENNETH SCHMITT
Town Supervisor

TOWN OF CARMEL
TOWN HALL

ANN SPOFFORD
Town Clerk

SUZANNE MC DONOUGH
Town Councilwoman
Deputy Supervisor



KATHLEEN KRAUS
Receiver of Taxes

MICHAEL A. BARILE
Town Councilman
JOHN D. LUPINACCI
Town Councilman
JONATHAN SCHNEIDER
Town Councilman

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MICHAEL SIMONE
Superintendent of Highways
Tel. (845) 628-7474

FAX

To:	The Honorable Ajit Pai, Chair The Hon. M. O'Reilly, Commissioner The Hon. B. Carr, Commissioner The Hon. Jessica Rosenworcel, Commissioner	From:	Kenneth Schmitt, Supervisor Town of Carmel Town Board Town of Carmel Cable Advisory Committee
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Pages: 4

Phone: 1-888-225-5322

Date: December 14, 2018

Re: Cable Television Consumer
Protection and Competition Act of
1992, MB Docket 05-311

cc:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

● **Comments:**

Please see attached. Thank you

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December 13, 2018

The Honorable Ajit Pai, Chairman
The Honorable Michael O'Rielly, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Jessica Rosenworcel, Commissioner
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

**Re: Cable Television Consumer Protection and Competition Act of 1992, MB
Docket 05- 311**

Dear Chairman Pai and Commissioners:

As the Town Board Supervisor on behalf of the Town Board of Carmel, New York, I write to reply to comments of the Cable Act Preservation Alliance and members of the Town of Carmel Cable TV Advisory Committee. We strongly disapprove of the proposals and tentative conclusions set forth in the FCC's September 25 Further Notice of Proposed Rule Making in Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket 05- 311.

We view the proposals and conclusions as unacceptable intrusions of the federal government into the affairs of state and local governments. We fear this proposal will result in a dire drop of resources for public, educational and government (PEG) channels in Carmel and throughout the nation. In an era of media globalization and consolidation, PEG access stations continue to give viewers critical information about their communities and offer an important platform for local voices.

Our constituents watch PEG channels to monitor local government meetings and proceedings including emergency alerts and directives; watch our public schools' latest news, performances and sports; share the benefits of religious

services broadcast weekly; enjoy our community events and learn about important issues that directly affect our town from our neighbors, elected officials, and civic and religious leaders.

This was the intent of the PEG provisions of the 1984 Cable Act – to enhance local voices, serve local community needs and interests, and strengthen our local democracy. By defining “franchise fee” in an overly broad fashion to include “in-kind” support, the FCC’s proposals will shift the current equilibrium between cable franchising authorities and cable operators to disadvantage communities and force them to choose between franchise fees and PEG channels – something that was never the intent of the Act.

There are more than 1,500 public, educational and governmental studios and public access centers and an estimated 3,000 PEG channels in the U.S. Tens of thousands of hours of programming are produced nationally by veterans, seniors, youth groups, and the disabled. If PEG channels disappear, there is nothing to fill that void in our town or others.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt the proposals in the Further Notice cited above.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kenneth Schmitt', written in a cursive style.

Kenneth Schmitt,
Town Supervisor

Cc: Carmel Town Board
Town Legal Counsel
Town Special Counsel
Town of Carmel Cable TV Advisory Committee (Francis J. Monaco,
Chairman, Armanda Famiglietti, Gordon Lee Updegraff, Robert J. Schanil

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF CARMEL AUTHORIZING
THE TOWN SUPERVISOR TO SUBMIT ON THE TOWN'S BEHALF
REPLY COMMENTS TO THE FEDERAL COMMUNICATIONS COMMISSION
IN THE MATTER OF THE IMPLEMENTATION OF SECTION 621(A) (1) OF THE
CABLE COMMUNICATIONS POLICY ACT OF 1984 AS AMENDED BY THE CABLE
TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992**

WHEREAS, on September 25, 2018, the Federal Communications Commission (FCC) issued a Second Further Notice of Proposed Rulemaking, (Docket No. 05-311, In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992) (the "FNPRM"); and

WHEREAS, the FNPRM is intended to address two issues raised by a remand from the US Court of Appeals for the Sixth Circuit regarding how local franchising authorities may regulate cable operators; and

WHEREAS, through the FNPRM process the FCC is considering adopting rules that would limit the consideration for which local governments can negotiate with cable television franchisees operating in public rights of way to only a franchise fee of no more than 5%; and

WHEREAS, under the proposed rules, other in kind benefits that cities and counties have historically negotiated for with cable television companies, such as PEG channel capacity and complementary services to public facilities, would have to be offset against franchise fee revenue, which is only intended to act as a rental payment for use of the public rights of way;

WHEREAS, these limits and offsetting requirements could force local governments to choose between adequately funding local public access, educational and government programming, and maintaining the franchise fee contribution to their general funds; and

WHEREAS, the Town of Carmel's Cable Advisory Committee supports maintaining local franchising authority to preserve local governments' ability to negotiate in the public interest for cable channel space, institutional networks and public education and government programming; and

WHEREAS, over the past several weeks members of the Town of Carmel Cable Advisory Committee have filed comments opposing the proposed FCC rules; and

WHEREAS, comments of the FNPRM and reply comments are due on December 14, 2018; and

WHEREAS, the Town of Carmel believes it is important that the Town show its opposition to the FCC's proposed rules, and its support for the position taken by the Town of Carmel Cable Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF CARMEL TOWN BOARD as follows:

Section 1. The Town Board hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Town Supervisor is hereby authorized to work with the Town of Carmel Cable Advisory Committee to prepare and submit reply comments to the FCC on the Town's behalf on the FCC's webpage supporting the Town of Carmel Cable Advisory Committee's comments and opposing the FCC's proposed rules in the matter described above.

Resolution

Offered by: Councilman Schneider

Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Michael Barile	<u>X</u>	<u> </u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

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I, Ann Spofford, Town Clerk of the Town of Carmel, Putnam County, New York, do hereby certify that the foregoing resolution is a true and exact copy of the original on file in my office which was adopted by the Town Board of said Town at a duly called and held meeting on the 12th day of **December, 2018**; and of the whole thereof.

December 13, 2018
Dated

Ann Spofford
Ann Spofford, Town Clerk